

CEMETERY BOARD MEETING

MINUTES

October 17, 2007

The Cemetery Board met on October 17, 2007, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following members were present:

Kenneth R. Bell, Chairman
Isabel Berney
Mike Doherty
Randy Gleason
Delores King
Mike Kirsch

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Karen O'Neal, Deputy Director
Christine Martine, Executive Director
Herbert Nichols, Investigator
Bonnie Rhea Adams, Director of Complaint Analysis, &
Resolution
Earlyne Perkins, Legal Analyst
Emily Trent, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was present at the meeting.

Chairman Bell called the meeting to order at 9:20 AM

Call to Order

No one addressed the Board during the Public Comment period.

Public Comment

A motion was made by Mr. Doherty and seconded by Ms. King to approve the agenda. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Doherty, Gleason, King, and Kirsch.

Agenda

A motion was made by Mr. Doherty and seconded by Mr. Gleason to adopt the following minutes: June 6, 2007, Board Meeting. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Doherty, Gleason, King, and Kirsch.

Minutes

Mr. Bell turned the position of Chair over to Mr. Doherty and recused himself from the meeting.

Transfer of Chair

In the matter of **File Number 2007-02836, Star City Memorial Sales, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Mr. Gleason to accept the Consent Order wherein Star City Memorial Sales LLC admits to a violation of §54.1-2319, of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. Additionally, Star City Memorial Sales LLC agrees to provide the Board with proof of the deposit of \$1,561.00 to the trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

**File Number 2007-02836,
Star City Memorial Sales
LLC**

As the reviewing Board member Mr. Bell did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-02864, Temple Hill, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. King to accept the Consent Order wherein Temple Hill, LLC admits to a violation of §54.1-2319, of the *Code of Virginia* (Count 1) and a violation of §54.1-2325, of the *Code of Virginia* (Count 2) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1 and in Count 2, and agrees to pay \$150.00 in Board costs for a total of \$550.00. Additionally, for the violation of Count 1, Temple Hill, LLC agrees to provide the Board with proof of the deposit of \$2,100.00 to the perpetual care trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. Also, for the violation of Count 2, Temple Hill, LLC agrees to provide the Board with proof of the deposit of \$88.00 to the preneed trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

**File Number 2007-02864,
Temple Hill, LLC**

As the reviewing Board member Mr. Bell did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-02866, Loewen (Virginia), LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Gleason and seconded by Ms. Berney to accept

**File Number 2007-02866,
Loewen (Virginia), LLC**

the Consent Order wherein Loewen (Virginia), LLC admits to a violation of §54.1-2319, of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. Additionally, Loewen (Virginia), LLC agrees to provide the Board with proof of the deposit of \$4,620.00 to the perpetual care trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

As the reviewing Board member Mr. Bell did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-02867, Covenant Acquisition, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. King to accept the Consent Order wherein Covenant Acquisition, LLC admits to a violation of §54.1-2319, of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. Additionally, Covenant Acquisition, LLC agrees to provide the Board with proof of the deposit of \$180.00 to the perpetual care trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

File Number 2007-02867,
Covenant Acquisition,
LLC

As the reviewing Board member Mr. Bell did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-02868, Henry Memorial Park, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Gleason and seconded by Ms. Berney to accept the Consent Order wherein Henry Memorial Park, LLC, admits to a violation of §54.1-2319, of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. Additionally, Henry Memorial Park, LLC, agrees to provide the Board with proof of the deposit of \$180.00 to the perpetual care trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

File Number 2007-02868,
Henry Memorial Park,
LLC

As the reviewing Board member Mr. Bell did not participate in the

discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-02869, Laurel Hill Memorial Park, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. King to accept the Consent Order wherein Laurel Hill Memorial Park, LLC admits to a violation of §54.1-2319, of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. Additionally, Laurel Hill Memorial Park, LLC agrees to provide the Board with proof of the deposit of \$2,940.00 to the perpetual care trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

File Number 2007-02869,
Laurel Hill Memorial
Park, LLC

As the reviewing Board member Mr. Bell did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-02870, Temple Hill Subsidiary Corp.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Mr. Gleason to accept the Consent Order wherein Temple Hill Subsidiary Corp. admits to a violation of §54.1-2325, of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. Additionally, Temple Hill Subsidiary Corp. agrees to provide the Board with proof of the deposit of \$88.00 to the preneed care trust fund, for the 2005 shortage, within 30 days of the Board's acceptance of the Order. The motion passed unanimously. Members voting "Yes" were Berney, Doherty, Gleason, and King.

File Number 2007-02870,
Temple Hill Subsidiary
Corp.

As the reviewing Board member Mr. Bell did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

Mr. Bell returned and assumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2007-03843, Danville Memorial Gardens, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Doherty and seconded by Ms. Berney to accept the Consent Order wherein Danville Memorial Gardens, Inc. admits to violations of §54.1-2319 (1 violation), of the *Code of Virginia*

File Number 2007-03843,
Danville Memorial
Gardens, Inc.

(Count 1), and §54.1-2325 (2 violations), of the *Code of Virginia* (Count 2), and §54.1-2324 (1 violation), of the *Code of Virginia* (Count 3), and §54.1-2333 (1 violation) of the *Code of Virginia* (Count 4) and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$300.00 for each violation contained in Count 2, \$100.00 for the violation contained in Count 3, \$100.00 for the violation contained in Count 4 and agrees to pay \$150.00 in Board costs for a total of \$1,450.00. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, King and Kirsch.

As the reviewing Board member Mr. Gleason did not participate in the discussion or votes related to this matter.

In the matter of **File Number 2007-03981, Rosewell Memorial Garden, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. King and seconded by Mr. Doherty to accept the Consent Order wherein Rosewell Memorial Garden Inc. admits to a violations of §54.1-2319 (3 violations), of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$200.00 for each violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$750.00. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, King and Kirsch.

File Number 2007-03981,
Rosewell Memorial
Garden, Inc.

As the reviewing Board member Mr. Gleason did not participate in the discussion or votes related to this matter.

In the matter of **File Number 2007-04027, Cemetery Management Corporation, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Doherty and seconded by Ms. King to accept the Consent Order wherein Cemetery Management Corporation LLC admits to violations of §54.1-2319 (8 violations), of the *Code of Virginia* (Count 1), and §54.1-2325 (7 violations), of the *Code of Virginia* (Count 2), and §54.1-2324 (1 violation), of the *Code of Virginia* (Count 3), and §54.1-2333(1 violation) of the *Code of Virginia* (Count 4) and agrees to a monetary penalty of \$75.00 for each violation contained in Count 1, \$75.00 for each violation contained in Count 2, \$250.00 for the violation contained in Count 3, \$250.00 for the violation contained in Count 4 and agrees to pay \$150.00 in Board costs for a total of \$1,775.00. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, King and Kirsch.

File Number 2007-04027,
Cemetery Management
Corporation, LLC

As the reviewing Board member Mr. Gleason did not participate in the discussion or votes related to this matter.

Mr. Jasper R. Eanes, CEO, of Sherwood Memorial Park, addressed the Board requesting the Board to approve the withdrawal of funds equaling \$6,476.10 erroneously paid into the Perpetual Care Trust Fund from lawn crypt sales. Secondly, approval to withdraw the amount of \$201,474.62 for erroneous deposits for markers and vaults. Lastly, approval to withdraw the 2007 realized capital gains, which was \$447,680.21 as of September 17, 2007. After discussion, a motion was made by Mr. Doherty and seconded by Ms. King to allow the withdrawal of \$6,476.10 from the Perpetual Care Trust Fund for the erroneous deposits from lawn crypt sales and \$201,474.62 from the Perpetual Care Trust Fund for the erroneous deposits for markers and vaults. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Doherty, King, and Kirsch.

Administrative Matters

After discussion, a motion was made by Mr. Doherty to not allow the withdrawal of \$447,680.21 from the 2007 realized capital gains of the Perpetual Care Trust Fund. With no second, the motion failed.

A motion was made by Mr. Bell and seconded by Ms. King to allow withdrawal of the 2007 realized capital gains of \$447,680.21 as of September 17, 2007 from the Perpetual Care Trust Fund. The motion passed by majority vote. Members voting "Yes" were Bell, Berney, King, and Kirsch. Member voting "No" was Doherty.

Due to a possible conflict of interest, Mr. Gleason recused himself from voting in this matter.

The Board reviewed and discussed a Legislative Proposal for 2008. No action was taken by the Board.

New Business

The Board recessed from 10:15AM to 10:25AM

Break

The Board viewed the presentation from the Office of the Attorney General on Conflict of Interest Act Training.

New Business

The meeting adjourned at 11:25 AM.

Adjourn

Jay DeBoer, Secretary

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